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ATTORNEY GENERAL RAOUL FIGHTS TO PRESERVE DACA AND PROTECT DREAMERS

Chicago — Attorney General Kwame Raoul joined a coalition of 17 attorneys general in continuing to fight the federal government’s threats to deport Dreamers currently registered for the Deferred Action for Childhood Arrivals (DACA) program.

After the U.S. Supreme Court ruled in June that the federal government’s attempts to cancel the DACA program were unlawful, the program was supposed to resume. But instead of continuing to process new applications, the U.S. Department of Homeland Security (DHS), through the purported acting secretary of Homeland Security, Chad Wolf, issued a new memorandum on July 28, which directed DHS to make interim changes to the program — including declining to accept any new initial DACA applications — while he considered whether to fully rescind DACA.

In a [motion for partial summary judgment](#), the coalition amends its initial September 2017 complaint and asks the court to immediately vacate the Wolf memo on the grounds that it — like the initial federal policy to rescind DACA — is unlawful. Raoul and the coalition point out that it should never have been carried out since Wolf is not lawfully serving in the role as acting secretary of Homeland Security.

“The proposed changes to DACA are unlawful, discriminatory and contrary to our values as a nation,” Raoul said. “I am committed to continuing the fight to oppose any effort by the federal government to undermine DACA.”

Dreamers are foreign-born young people who were brought to the United States at a young age and now identify themselves as Americans. Most have no memory of or connection with the country where they were born, and many don’t speak any language other than English. Under immigration law before the DACA program, most of these young people had no way to gain legal residency in the United States, even though they had lived most their lives in U.S. Since 2012, more than 825,000 young people who were brought to this country at a young age were promised that they could legally work, study, serve in the military, and raise families in the United States without fear of arrest or deportation.

This past June, the Supreme Court ruled that the federal government’s attempt to cancel the DACA program was arbitrary and capricious, in violation of the Administrative Procedure Act (APA). Additionally, the U.S. Court of Appeals for the 4th Circuit also found the rescission of DACA to be unlawful.

Despite multiple courts ruling against the federal government’s attempts to rescind DACA, the late July memo by Wolf specifically orders DHS to reject all new initial DACA applications, to change the renewal period for current beneficiaries from two years to one year, and to reject all advance parole applications absent exceptional circumstances. The Wolf memo also purports to apply these changes retroactively to all applications submitted after June 18, 2020, the date of the Supreme Court decision.

In the motion filed in the U.S. District Court for the Eastern District of New York, Raoul and the coalition argue that these orders, especially the order to reject new applications, fly in the face of both the Supreme Court and the 4th Circuit’s earlier orders that found DHS’s efforts to rescind DACA as unlawful.

Raoul and the coalition also argue that court should hold the Wolf memo invalid and vacate the changes it effected to DACA for the same reasons the U.S. Government Accountability Office (GAO) concluded earlier this month when it said Wolf has never lawfully served in the role of acting secretary of Homeland Security because his assumption of that role violated two federal acts related to the succession of power. Wolf

assumed the acting secretary position pursuant to a November 2019 revision to DHS's succession order issued by then-Acting Secretary Kevin McAleenan. But McAleenan had no power to make that revision because he assumed the position unlawfully himself following then-Secretary Nielsen's April 2019 resignation. DHS's operative succession order at the time of Secretary Nielsen's resignation unambiguously provided that the director of the Cybersecurity and Infrastructure Security Agency, not the commissioner of U.S. Customs and Border Protection, was to succeed the secretary in the event she resigned. In accordance with the GAO's finding a few weeks ago, the coalition makes clear that Wolf did not have the authority to issue the June memo, and he continues to lack that authority today — placing DHS's current policies in direct violation of both the Supreme Court and 4th Circuit decisions from June.

The coalition specifically argues that DHS's new memo related to DACA once again violates the Administrative Procedure Act. The memo's issuance by Chad Wolf is also a violation of both the Federal Vacancies Reform Act and the Homeland Security Act, as Wolf has never lawfully served as acting secretary of Homeland Security. The coalition seeks to have the July 28 memo vacated and the DACA program to be restored to where it stood before the September 2017 rescission, as the Supreme Court ordered in June.

Joining Raoul in the motion are the attorneys general of Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Iowa, Massachusetts, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Washington.